



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 3521-99

16 May 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps Reserve filed enclosure (1) with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 2 January 1999.

2. The Board, consisting of Mr. Taylor, Mr. Milner and Mr. Pauling, reviewed Petitioner's allegations of error and injustice on 9 May 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner was promoted to GYSGT (E-7) on 1 January 1997. On 3 June 1997 he reenlisted for one year and subsequently extended that enlistment for 7 months. On 5 February 1998 he was issued a Notification of Eligibility for Retired Pay at Age 60. Although there are no discharge entries in the record, the expiration of his enlistment, as extended, was 2 January 1999.

d. The Board did not request an advisory opinion in this case. However, the Board is aware that Headquarters Marine Corps has routinely recommended corrective action in similar cases where an individual is qualified for reserve retirement and there

is no explanation in the record why they were discharged and not retired.

e. The Board is also aware that the Uniform Retirement Date Act, 5 U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was eligible for reserve retirement and would have been retired if he had requested it. Therefore, the Board concludes that he should be transferred to the Retired Reserve in the grade of GYSGT. Since he may have drilled in January and given the requirements of the Uniform Retirement Date Act, the record should be further corrected to show that he extended his enlistment for an additional period of one month, and then transferred to the Retired Reserve effective 1 February 1999.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Retired Reserve.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that his enlistment of 3 June 1997 was extended for an additional period of one month and that he transferred to the Retired Reserve on 1 February 1999 in the grade of GYSGT, vice being discharged on 2 January 1999.
- b. That this Report of Proceedings be filed in Petitioner's naval record.
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e))

and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

A handwritten signature in cursive script, appearing to read "Robert D. Friedman".

For W. DEAN PFEIFFER
Executive Director